HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No.1448 OF 2005

Between:

D. Narsimhulu

. . .Petitioner

AND

Union of India rep., by its Deputy Secretary,
Ministry of Home Affairs, Loknayak Bhavan,
(Hyderabad FF Cell), New Delhi and another

. . .Respondents

:: ORDER ::

Counsel for the Petitioner : Shri A. Rajendra Babu

Counsel for respondent No.1 : Shri A. Rajasekhar Reddy

Counsel for respondent No.2 : Government Pleader for Revenue

Dated: 12-12-2006

-

In this petition, the petitioner has prayed for quashing communication dated 23-08-2004 vide which the Government of India rejected his claim for grant of pension under Swatantrata Sainik Samman Pension Scheme, 1980 (for short, 'the 1980 Scheme').

The petitioner's claim for pension is founded on his assertion that with a view to evade arrest, he remained underground for a period of six months. Along with his affidavit, the petitioner has filed large number of documents including personal knowledge certificate issued by Shri Sivaji Ambadasa Rao, Ex-member of Legislative Assembly who has been given Tamarapatra by the Government of India by being treated as a freedom fighter.

I have heard Shri A. Rajendra Babu, learned advocate for the petitioner and Shri A. Rajesekhar Reddy, learned Assistant Solicitor General for the Union of India and carefully perused the record.

Shri A. Rajasekhar Reddy, learned Assistant Solicitor General invited my attention to para 2.3 of the policy framed by the Government for grant of pension under the 1980 Scheme and argued that the concerned authority did not commit any illegality by refusing to entertain the petitioner's claim because the personal knowledge certificate issued by Shri Sivaji Ambasada Rao is wholly unacceptable. Shri Reddy pointed out that the first information report in connection with which the petitioner is said to have gone underground was registered on 04-03-1948, whereas the certificate issued by Shri Sivaji Ambadasa Rao shows that the petitioner had remained underground from 01-01-1947 to 30-06-1947.

Shri Reddy emphasized that Hyderabad Liberation Movement started sometime after 15-08-1947 and, therefore, if the period specified in the personal knowledge certificate of Shri Sivaji Ambadasa Rao is correct, then the petitioner cannot be treated to have remained underground in connection with Hyderabad Liberation Movement.

In the context of the submissions made by Shri A. Rajasekhar Reddy, I enquired from Shri A. Rajendra Babu as to how his client can be treated as a freedom fighter within the meaning of clause 2.3 of the instructions issued by the Government of India, but he could not give any reply.

In my opinion, the petitioner has failed to make out a case for entertaining his claim as a freedom fighter. The petitioner's assertion that he remained underground for a period of six months in connection with F.I.R. dated 04.03.1948 lacks credibility and is liable to be rejected because he has not produced any documentary evidence to substantiate the same. As per the personal knowledge certificate issued by Shri Sivaji Ambadasa Rao, the petitioner remained underground from 01.01.1947 to 30.06.1947. It is impossible to comprehend that the petitioner would have remained underground from January 1947 to June 1947 in connection with an F.I.R. registered on 04.03.1948. In my considered view, the personal knowledge certificate issued by Shri Sivaji Ambadasa Rao is a piece of manipulated document and the same cannot be made basis for granting relief to the petitioner by directing the respondents to treat him as a freedom fighter.

For the reasons stated above, the writ petition is dismissed. I would have saddled the petitioner with exemplary costs, but refrain from doing so keeping in view his old age.

The Court Officer is directed to give a copy of this order to Shri A. Rajasekhar Reddy so that he can inform the concerned authorities

that the claim filed under the 1980 Scheme on the strength of personal knowledge certificate given by Shri Sivaji Ambadasa Rao must be scrutinized with great care and circumspection, else the revenue may be defrauded in a big way. This has also been brought to the notice of Shri M.N. Chopra, Deputy Secretary, Ministry of Home Affairs, Freedom Fighters Division, New Delhi and Shri S.D. Kaushik, Under Secretary, Ministry of Home Affairs, Freedom Fighters Division, New Delhi who have appeared in the Court in connection with the proceedings of Writ Petition No. 19647 of 1999.

G.S.SINGHVI, CJ

Date: 12.12.2006
ks